



**BYRON  
SHIRE  
COUNCIL**

## **Draft Policy**

# **Commercial Activities on Coastal and Riparian Crown Reserves**

**2023**

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## Information about this document

Date Adopted by Council	15 December 2005
Resolution No	05-930
Document Owner	Director Infrastructure Services
Document Development Officer	Manager Open Space and Facilities
Review Timeframe	As required due to granting of sub-licences
Last Review Date	30 June 2023
Next Scheduled Review Date	30 June 2026

## Document History

Doc No.	Date Amended	Details/Comments eg Resolution No.
DM421342	15 December 2005	Res 05-930
DM456736	15 August 2006	Res 06-499
DM939163	3 March 2010	Res 09-1128
DM1177191	8 December 2011	Res 11-1000
E2017/23840	22 June 2017	Res 17-262
E2019/78565	28 November 2019	Adopted following Ordinary Meeting 28/11/19 Res 19-582
E2021/133291	28 October 2021	Adopted following Ordinary Meeting 28/10/21 Res 21-429
E2021/137137	8 November 2021	Policy finalised using accessibility template, updated reference to Local Government (General) Regulation (from "2005" to "2021") and amended review date
E2023/2345		Draft for public exhibition per Res 23-407

## Further Document Information and Relationships

Related Legislation	<p>Crown Land Management Act 2016  Crown Land Management Regulation 2018  Local Government Act 1993  Local Government (General) Regulation 2021  National Parks and Wildlife Act 1974  National Parks and Wildlife Regulation 2019  Marine Estate Management Act 2017  Marine Estate Management Regulation 2017  Marine Estate Management (Management Rules) Regulation 1999</p>
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	Marine Safety Act 1998 Food Act 2003
Related Policies	Community Strategic Plan Byron Local Environmental Plan 2014
Related Standards, Procedures, Statements, documents	Byron Shire Council Business Ethics Statement 2022 Partnership Proposals 2017 Byron Shire Council Internal Procurement Guideline ICAC Direct Negotiation Guidelines 2018 Office of Local Government NSW – Public Private Partnerships Guideline 2022 Crown Licence Agreement RI564194 for Commercial Activities

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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# 1 Introduction

## 1.1 Objectives

1. To establish a balance between passive and active recreational use of coastal reserves.
2. To protect coastal reserve environments during licensed activities.
3. To clarify the types of low impact commercial recreational activities that may occur in coastal reserves and regulation of those activities.
4. To provide a fair and transparent process for the grant of licences on coastal reserves.

## 1.2 Scope

This Policy applies to commercial and non-commercial activities held on the following Crown coastal reserves:

- \*Belongil Beach (Part Reserve R755695),
- Brunswick Heads Beach (Reserve R97139, \*Lot 7004 DP 1043656),
- Byron Bay Beach (Reserve R82000),
- \*Clarkes Beach (Reserve R49122),
- \*Ferry Park Brunswick Heads (R74701),
- \*New Brighton Beach (Reserve R755687),
- Seven Mile Beach (Reserve R140034, part \*Lot 7007 DP1043659),
- Simpsons Creek Brunswick Heads (Reserve R80349, \*Lot 408DP728643, part \*Reserve R82999 and part \*Reserve R91536),
- \*South Brunswick Heads Beach (Reserve R82780),
- South Golden Beach (Reserve 140052),
- \*Suffolk Park Beach (Reserve R55695 and \*Lot 7012 DP 1043662), and
- Tallow Beach (Reserve R97066 and part Reserve R755695).

*\* denotes lands under licence RI564194*

### **Transition Arrangements Specific to Byron Bay Beach Reserve (Reserve 82000):**

The below transition arrangements apply specifically to Byron Bay Beach Reserve (Reserve 82000) and are intended to facilitate an orderly removal of two unauthorised private structures from the public land. Nothing in this Policy can create a contractual arrangement or contractual obligations on Council.

Council intends to make uses on the Reserve lawful by taking the following steps:

1. Council is developing a Foreshore Precinct Plan to inform the future Plan of Management for Reserve 82000. The Department of Planning and Environment is also reviewing their strategic plans for the Clarkes Beach area. These strategic plans will involve significant community consultation and input. Once adopted these Strategic Plans will collectively guide future uses of, and development on, this important coastal reserve.
2. In the meantime:

- a. There are two private structures on the Reserve that are owned by commercial sea kayak businesses (**Private Structures**).
- b. Council resolution 13-292 applies to the Private Structures but they are unlicensed. In order to facilitate an orderly transition, they will be allowed to remain in place until the end of the current Class 2 Sub-Licences on 31 October 2024 provided:
  - i. they are used consistent with the conditions of Res 13-292, and any future Council resolutions; and
  - ii. they do not present any public safety risks to the users of the Reserve.
- c. Council will call a tender for new Class 2 Sub-Licences that will start on 1 November 2024.
- d. Council intends to build storage facilities on Reserve R82000 (**Council Storage**). If the Council Storage is operational by 1 November 2024, the Private Structures will be required to be removed from the Reserve from 1 November 2024, at the private owners' cost.
- e. For either or both of the current owners of the Private Structures if:
  - i. they are successful in the upcoming tender for new Class 2 sub-licences; and
  - ii. the Council Storage is not available by 1 November 2024; then

Council will issue a temporary licence for storage over the applicable Private Structure, to facilitate it remaining until the Council Storage is available or the end of the new Class 2 sub-licences, whichever is earlier, provided the Private Structure is used in accordance with the conditions of Res 13-292, and any future Council resolutions, and does not present any risk to public safety. Once Council Storage is available, or at the end of the new Class 2 sub-licences whichever comes first, the Private Structure/s must be removed from Reserve R82000 at the private owners' cost.

- 3. To ensure equity, fairness, and transparency in the upcoming Tender for new Class 2 sub-licences, each tenderer will be required to submit an Operations Plan outlining how their operations will benefit the wider Byron Bay community and interact with public uses on the Reserve, including proposals for storage and transport of equipment.

### 1.3 Definitions

Policy acronym	Definition
<i>Approved form</i>	means a form determined by the Byron Shire Council for the purposes of this policy in relation to which this expression is used.

<b>Policy acronym</b>	<b>Definition</b>
<i>Class 1 Licence</i>	means a short-term licence issued by Council in accordance with s2.18 of the <i>Crown Lands Management Act</i> or in accordance with the conditions of the Plan of Management applying to the Reserve.
<i>Class 2 Licence</i>	means a licence for a low impact commercial recreational activity issued by Council in accordance with Council's licence from Crown Lands RI564194.
<i>Coastal reserve</i>	means Crown reserves listed in licence RI564194 and identified in the Scope of this Policy.
<i>Commercial Activity</i>	means the offer of any good or provision of any service, or any component of an event or activity that is for profit, for personal gain or for any benefit to individual members.
<i>Council</i>	means the Byron Shire Council.
<i>Educational institution</i>	means an institution recognised by the NSW Department of Education or Disability Sports Australia.
<i>Educationally based community activities</i>	means organised activities for the purpose of providing and distributing educational information.
<i>Holder</i>	means the person named as the licensee in a Class 1 licence or Class 2 sub-licence granted under this Policy.
<i>Non-commercial activity</i>	means the offering of any good or service for financial or other reward for the sole benefit of a not-for-profit organisation.
<i>Passive recreational activities</i>	means passive recreational / leisure activities undertaken by people on an informal / unorganised basis.
<i>Political functions</i>	means organised gatherings of people, for the purpose of expressing political beliefs.
<i>Reserve purpose</i>	means the gazetted purpose that Crown land must be used for.
<i>Religious functions</i>	means organised gatherings of people, for the purpose of expressing religious beliefs.
<i>Social gatherings</i>	means small gatherings of people, meeting on an informal and social basis.
<i>Sporting events – organised</i>	means events organised on a not-for-profit and community-oriented basis, where prizes are distributed on an amateur basis.
<i>Weddings</i>	means weddings that constitute gatherings of three or more people that impact on the management and use of the reserve.

## 2 Statement

Council aims to manage coastal reserves in the Shire for the long-term benefit of the community.

## 3 Types of Activities and Licences

### 3.1 Requirements that apply to all activities

3.1.1 To be permissible on coastal Reserve the activities must be:

- (1) consistent with the coastal Reserve, reserve purpose,
- (2) consistent with any Plan of Management applying to the coastal Reserve, or if none, the activity must not change the nature or use of the coastal Reserve,
- (3) be a valid Future Act under the Native Title legislation on a coastal Reserve where Native Title rights and interests do or could continue,
- (4) consistent with the terms of any Crown Lands licence or lease that applies to the coastal Reserve, and
- (5) lawful, which means additional approvals or permissions may also be required.

3.1.2 If the requirements in clause 3.1.1 are not satisfied, then Council has no power to licence the activity on a coastal Reserve. The balance of this Policy applies only if all requirements in clause 3.1.1 are satisfied.

3.1.3 Not all applications for activities that meet requirements in 3.1.1 will be granted a licence. Other factors that Council may consider in the assessment of a licence proposal includes, but not limited to, environmental, economic, social and governance matters and if the licence proposal is in the public interest.

3.1.4 Council retains absolute discretion in determining if a licence of any type will be granted for an activity on a coastal Reserve.

3.1.5 Anyone dissatisfied with the outcome of a licence proposal must detail their concerns, with reasons, in writing addressed to the General Manager within 28-days of the date of the decision.

### 3.2 Non-commercial activities requiring no licence

3.2.1 The following non-commercial activities may be carried out on a coastal reserve without obtaining a licence or other approval:

- (1) emergency services performed by recognised emergency service organisations, including training days,
- (2) passive recreational activities, and
- (3) social gatherings.



### 3.3 Non-commercial activities requiring a Class 1 licence

3.3.1 The following prescribed non-commercial activities may be carried out on a coastal Reserve with a Class 1 licence:

- (1) access through a reserve,
- (2) community, training, or education (non-commercial),
- (3) emergency occupation,
- (4) entertainment (non-commercial),
- (5) environmental protection, conservation or restoration or environmental studies,
- (6) exhibitions (non-commercial),
- (7) filming (as defined in the *Local Government Act 1993*),
- (8) functions (non-commercial and limited to educational based community activities, fundraising by registered charities, political or religious functions and small weddings and ceremonies),
- (9) meetings (non-commercial),
- (10) site investigation,
- (11) sporting & organised recreational activities (non-commercial), and
- (12) temporary storage (non-commercial).

3.3.2 Advertising (sponsorship) may be authorised in a Class 1 licence provided it complies with the following conditions:

- (1) the advertising must be ancillary to and directly relate to an activity listed in 3.3.1 that is granted the Class 1 licence,
- (2) the inclusion of advertising in a licence, must have prior approval by a Council resolution,
- (3) the advertising must be lawful and have all required consents in place,
- (4) the dimensions of the advertisement must be stated in the licence,
- (5) the advertisement must be placed on land subject to the licence,
- (6) the advertisement must not:
  - distract drivers and pedestrians,
  - impact on traffic flow or traffic furniture or management,
  - obstruct line of sight of drivers and pedestrians, and
  - offend, incite, or antagonise other persons by virtue of the message displayed.

3.3.3 Applications for a Class 1 licence must be in writing in the approved form.

3.3.4 A non-commercial activity that satisfies all requirements in 3.1.1 but which is not listed in 3.3.1 or 3.3.2 requires a resolution of Council prior to the issue of a Class 1 licence.

3.3.5 Term of a Class 1 licence must be limited to 12-months or less with licence conditions determined by Council at its absolute discretion.

3.3.6 Fees for a Class 1 licence are set by Councils fees and charges.

3.3.7 Other approvals or processes may be required before a Class 1 licence can be granted.

### 3.4 Commercial activities requiring a Class 2 sub-licence

3.4.1 Council may issue a Class 2 sub-licence for the following low impact commercial activities Reserve covered by this Policy:

- (1) surf schools and personalised surf schools,
- (2) sea kayak tours,
- (3) stand-up paddleboards schools,
- (4) mobile kiosk,
- (5) mobile beach locker hire, and
- (6) access through reserves for equestrian activities.

3.4.2 A Class 2 sub-licence will only be granted by Council through a competitive tender process.

3.4.3 Tenders for Class 2 sub-licence must be assessed to determine if the tender proposals offer the best value for Council and the Byron Shire community based on the following mandatory and qualitative criteria:

(1) **mandatory criteria**

- a. business name, address, and primary contact,
- b. ABN and Australian Company Number (ACN),
- c. organisational profile,
- d. information provided by a minimum of two referees,
- e. statement if acting as an Agent or Trustee,
- f. a statement if intending to sub-contract the sub-licence,
- g. details of financial viability to hold a sub-licence,
- h. details of relevant insurance covers or a statement stating that relevant insurances can be obtained,
- i. statement of ability to meet minimum work health and safety requirements,
- j. proof of holding relevant qualifications to operate a business for the purpose of the sub-licence,
- k. ability to hold a permit in accordance with s68 of the Local Government Act 1993, Part D, item 1 if required,
- l. a statement of a commitment to Council's ethical business practice principles and modern slavery, and
- m. conflict of interest declaration.

(2) **qualitative criteria and weighting**

Demonstrated:

- a. successful experience in the activity to a high standard (which can include consideration of any previous non-compliance with this Policy or with terms of a previous licence), weighting 20%.
- b. history and experience of environmentally acceptable operations, weighting 15%.
- c. appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological processes, possible constraints, and restrictions on operations, weighting 20%.
- d. experience in meeting licence conditions, including the keeping of records and prompt payment of fees, weighting 10%.

- e. knowledge and ability to provide appropriate safety requirements and duty of care responsibilities, weighting 15%.
- f. capability to provide interpretive and educational information that ensures clients are receiving instructions on minimal impact techniques, environmental protection, and ethics of appropriate behaviour, weighting 10%.
- g. compatibility with purpose of Crown, Cape Byron Marine Parks & National Parks & Wildlife Reserves, and the NSW Coastal Policy, and whether the proposed activity will promote and be ancillary to the use and enjoyment of the Reserves, weighting 5%.
- h. benefit of the activity provided to the wider Byron Bay community including degree of impact of operations on public use of the Reserve, weighting 5%.

3.4.4 Term of a Class 2 sub-licence is limited to a maximum of 6-years or less.

3.4.5 Fees for a Class 2 sub-licence is set by Council fees and charges.

3.4.6 A Class 2 sub-licence may be assigned or transferred (including any change in company shareholders) only in accordance with the terms of the Licence and a resolution of Council.

3.4.7 A Class 2 sub-licence will automatically lapse if the holder fails to perform as required by the sub-licence for a continuous period exceeding one (1) month (unless that occurs with Councils prior written approval) or will terminate in accordance with the terms of the sub-licence.

3.4.8 A Class 2 sub-licence that becomes vacant will be re-let only following an open competitive tender process.

3.4.9 A Class 2 sub-licence holder, may be granted and hold separately, one surf school sub-licence concurrently with one stand up paddleboard sub-licence. Otherwise, a holder may not hold more than one sub-licence.

### **3.5 Other commercial activities**

3.5.1 All commercial activities not listed in 3.4.1, are generally not permissible on a coastal Reserve except where a commercial activity satisfies requirements in 3.1.1 and where Council resolves to issue a licence for the commercial activity on a coastal Reserve.

3.5.2 To ensure transparency and fairness of access to opportunities to conduct commercial activities on a coastal Reserve, an open competitive process is generally required before Council may resolve to issue a licence for a commercial activity on a coastal Reserve.

3.5.3 Council retains the right to amend this Policy, or introduce additional policies, to cover other commercial activities on coastal Reserves.

### 3.6 Limits on Class 2 sub-licenses

3.6.1 The number and type of Class 2 sub-licenses that may be granted following a tender process are limited to the following, unless all requirements in 3.5 are satisfied:

Activity	Number of sub-licenses	Student / Instructor Ratio	Maximum students	Frequency
Surf Schools	4	8 students to 1 instructor.	10 students per session	2 surf school sessions per day per sub licence <u>except</u> :  a) 3 surf school sessions per day may occur during the overlap of NSW and Queensland school holidays in April and October and for the period 26 December to 26 January inclusive, and b) a 3 <sup>rd</sup> session per day must <u>not</u> occur within the National Park at Clarkes Beach, The Pass and Tallows Beach, and c) sub-licensees must obtain consent from Council to conduct a 3 <sup>rd</sup> session.
Personalised Surf Schools	2	2 students to 1 instructor.	2 students per session	
Stand Up Paddle Board	3	8 students to 1 instructor.	8 students per session	2 sessions per day per sub licence.
Sea Kayaks	2	As per Paddle Australia Guidelines.	18 tandem or single kayaks per tour.	Maximum of 730 tours per year, and  a) maximum of 3 tours per day per sub-licence, and b) sub-licensees must notify Council and the Cape Byron Marine Park in writing before conducting a 3 <sup>rd</sup> tour per day, and c) sub-licensees must report in writing to Council and the Cape Byron Marine Park before the end of December, March,
Sea Kayaks				

Activity	Number of sub-licences	Student / Instructor Ratio	Maximum students	Frequency
				June, and September in each year of the sub-licence detailing the total number of tours conducted during the quarter and total number of tours year to date.
Access through reserves for equestrian activities	3	4 horses to 1 instructor	10 horses per tour.	2 tours per day per sub-licence with access to occur only within 2- hours each side of low tide.
Mobile Kiosk (non-motorised)	3	N/A	N/A	Can only operate at designated operational locations.
Mobile Beach Locker Hire	1	N/A	N/A	Can only operate at the designated operational location.

3.6.2 Surf schools only may apply to Council for prior consent to extend surf school class sizes to a maximum of 20 students (1 instructor to every 10 students) if an application is received from an Educational Institution.

3.6.3 Class 2 sub-licence terms and conditions must be consistent with Crown licence RI564194 and will otherwise be determined by Council at its absolute discretion.

3.6.4 Minimum operational requirements for Class 2 sub-licenses are detailed in the Schedule attached to this Policy.

### 3.7 Breaches and unlicensed activities and revoking licences

3.7.1 Council will take all necessary action to remedy a breach of this Policy or of the terms of a Class 1 licence or Class 2 sub-licence, including but not limited to, issuing penalty notices, taking injunction proceedings and other legal action, and where appropriate, termination of the licence and removal of the activities from the coastal Reserve.

3.7.2 Council may revoke a Class 1 licence or Class 2 sub-licence:

- (1) where Council's power to grant the licence or sub-licence is revoked,
- (2) for management reasons including, but not limited to, environmental protection, public safety, and changes in policy or legislation,
- (3) any fee or money due to Council is in arrears for 30 days whether formally demanded or not,
- (4) for any breach of conditions of a licence or sub-licence,
- (5) if the licensee or sub-licensee commits an act of bankruptcy, or other unlawful act or breaches any requirement of any relevant Authority.

- 3.7.3 Council reserves the right to issue verbal warnings for minor deviations of non-essential terms in a Class 1 licence or Class 2 sub-licence.
- 3.7.4 Council will issue written warnings for non-compliance of essential terms in a Class 1 licence or Class 2 sub-licence. A Class 1 licence or Class 2 sub-licence will be terminated by Council if three (3) written notices are issued for breaches of essential licence or sub-licence terms.
- 3.7.5 A Class 1 licence or Class 2 sub-licence will be revoked:
- (1) automatically, in accordance with the terms of the Class1 licence or Class 2 sub-licence, where applicable,
  - (2) by written notice to the licensee or sub-licensee to that effect where notice is required,
  - (3) by restricting the licensee or sub-licensee from operating the activity on the coastal reserves, by force if necessary, or
  - (4) doing all of the above.

## 4 Legislative and strategic contexts

- 4.1 Byron Shire Community Strategic Plan 2032 details the following community strategic objectives relevant to this policy:
- Provide accessible community facilities and open spaces (5.4)
  - Protect the health of coastlines, estuaries, wetlands, and catchments (3.3)
  - Foster sustainable visitation and manage the impacts of tourism on the Shire (4.4)
  - Enhance trust and accountability through open and transparent leadership (1.1)
- 4.2 The following is relevant for use of a coastal Reserve:
- Crown Lands Management Act 2016 and Regulations
  - Environmental Planning and Assessment Act 1979, Regulations and Rules
  - Food Act 2003 and Regulations
  - Local Government Act 1993 and Regulations
  - National Parks and Wildlife Act 1974 and Regulations
  - Native Title Act 1993 and Regulations
  - Marine Estate Management Act 2017, Regulations and Rules
  - Marine Safety Act 1998
  - Byron Local Environmental Plan 2014
  - State Environmental Planning Policies
  - Byron Shire Council Business Ethics Statement 2022
  - Strategic Partnership Policy 2023
  - Byron Shire Council Internal Procurement Guideline
  - ICAC Direct Negotiation Guidelines 2018, and Crown Licence RI 564194

## **5 Sustainability**

Aims of this Policy contribute to quadruple bottom line outcomes via:

### **5.1. Social**

establishing a balance between passive and active recreational use of coastal Reserve by limiting the types of non-commercial and commercial activities that may be held on a coastal Reserve.

### **5.2. Environmental**

protecting coastal Reserve environments during licensed activities by restricting non-commercial and commercial uses of a coastal Reserve to low impact activities.

### **5.3. Economic**

clarifying the types of low impact commercial recreational activities that may occur in coastal Reserves and regulation of those activities by ensuring a fee is paid for use of a coastal Reserve.

### **5.4. Governance**

providing a transparent process for the grant of licences on coastal Reserves to ensure fairness, consistency, and transparency and compliance with applicable laws.

## 6 Schedules

### 6.1. Surf School

This list is to be read in conjunction with the matters set out in this Policy.

#### 1 **Introduction:**

A Surf School provides surf lessons to individuals and groups in licensed reserves.

#### 2 **Qualifications:**

- 2.1 Current Surf Rescue Certificate (SLSA Community Award), OR Current Bronze Medallion (SLSA proficient annually), OR Ocean Rescue Award (RLSS proficient annually), AND
- 2.2 Minimum - Level 1 Surf Coaching Accreditation from an Australian Nationally Recognised Training Institution, (Note: Level 1 Accreditation ensures basic coach education and annual coach education updating and requires mandatory updating of resuscitation, first aid and rescue certificates), AND
- 2.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross), AND
- 2.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

#### **Risk Management Protocol:**

The following equipment is to be provided on the beach at every Surf School class:

- 2.5 A mobile telephone,
- 2.6 A First Aid Kit (available for Council review during the sub-licence term),
- 2.7 "Soft Safes" surfboards with soft fins used at entry level,
- 2.8 Instructor's rescue board on beach,
- 2.9 Flags denoting area colour coding exclusively on flags; and
- 2.10 Drinking water.

#### **Insurance Cover:**

- 2.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), AND
  - 2.12 Minimum \$5 million Professional Personal Indemnity.
- 3 A surf school must operate at a minimum distance of 100 metres from any other sub-licensed surf schools.
  - 4 No surf school must operate from the western side of the Byron Bay Surf Club to a line extending from Middleton Street.
  - 5 No surf school will have priority over any other surf school in the licensed areas.
  - 6 A surf school does not have exclusive use rights over any licensed area and must not interfere with other beach users.



- 7** A surf school must have distinctive garments for each student and instructor, and
  - 7.1** students from each surf school must be identifiable and distinguishable from any other type of sub-licensed activity,
  - 7.2** instructors from each surf school must be easy to identify from a distance and be distinguishable from other sub-licensed activity,
  - 7.3** each surf school must have clear and visible colour coding exclusively on all garments and beach flags,
  - 7.4** surf schools must use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification, and
  - 7.5** all students and instructors must wear a leg-rope that is attached to the surfboard (resolution 23-136).
- 8** Surf schools must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
- 9** A surf school must maintain a close liaison with the Surf Life Saving Officers, if on duty, at a particular beach to be used by a surf school.
- 10** All participants in a surf school must be educated in the prohibition of surf craft in flagged areas on the beach under control of Surf Life Saving Officers.
- 11** A surf school must be cancelled if conditions are unsafe or if a surf carnival or other licenced event is being held. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 12** No vehicles are to be driven on any licensed area including the beach or in any land area of the reserve.
- 13** No structures, temporary or permanent, are to be erected on any licensed area including the beach or on any land area of the reserve except as permitted in 1.2 in this policy.
- 14** No advertising is permitted on the beach, on any uniforms, or equipment used by a Surf School with exception of the surf school business logo. Advertising of any kind is not permitted on shore-based equipment such as flags.
- 15** Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
- 16** Compliance with licence conditions and any other statutory requirements that may apply from time to time.

## 6.2. Personalised Surf School

This list is to be read in conjunction with the matters set out in this Policy.

### 1 **Introduction:**

A Personalised Surf School provides individualised one on one surf lessons to members of the public.

### 2 **Qualifications:**

- 2.1 Current Surf Rescue Certificate (SLSA Community Award), OR Current Bronze Medallion (SLSA proficient annually), OR Ocean Rescue Award (RLSS proficient annually), AND
- 2.2 Minimum - Level 1 Surf Coaching Accreditation from an Australian Nationally Recognised Training Institution, (Note: Level 1 Accreditation ensures basic coach education and annual coach education updating and requires mandatory updating of resuscitation, first aid and rescue certificates), AND
- 2.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross), AND
- 2.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

### **Risk Management Protocol:**

The following equipment is to be provided on the beach at every Surf School class:

- 2.5 A mobile telephone,
- 2.6 A First Aid Kit (available for Council review during the sub-licence term),
- 2.7 “Soft Safes” surfboards with soft fins used at entry level,
- 2.8 Instructor’s rescue board on beach,
- 2.9 Flags denoting area colour coding exclusively on flags; and
- 2.10 Drinking water.

### **Insurance Cover:**

- 2.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), AND
  - 2.12 Minimum \$5 million Professional Personal Indemnity.
3. No personalised surf school must operate from the western side of the Byron Bay Surf Club to a line extending from Middleton Street.
  4. No personalised surf school will have priority over any other sub-licensed surf school in the licensed areas.
  5. A personalised surf school must not interfere with other beach users or enjoy exclusive use rights over any licensed area.
  6. A personalised surf school must have distinctive garments for each student and instructor, and

- 6.1** students from each personalised surf school must be identifiable and distinguishable from any the other personalised surf school,
  - 6.2** instructors from a personalised surf school must be easy to identify from a distance and be distinguishable from any other type of sub-licensed surf school,
  - 6.3** each personalised surf school must have clear and visible colour coding exclusively on all garments and beach flags,
  - 6.4** personalised surf schools must use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification, and
  - 6.5** all students must wear a leg-rope that is attached to the surfboard (resolution 23-136).
- 7.** A personalised surf school must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
  - 8.** A personalised surf school must maintain a close liaison with the Surf Life Saving Officers, if on duty, at a particular beach to be used by a surf school.
  - 9.** All participants in a personalised surf school must be educated in the prohibition of surf craft in flagged areas on the beach under control of Surf Life Saving Officers.
  - 10.** A personalised surf school must be cancelled if conditions are unsafe or if a surf carnival or other major event is being held. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
  - 11.** No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
  - 12.** No structures, temporary or permanent, are to be erected on any licensed area including the beach or on any land area of the reserve except as permitted in 1.2 in this policy.
  - 13.** No advertising is permitted on the beach or on any uniforms or equipment used by a Personalised Surf School with exception to the personalised surf school business logo. Advertising of any kind is not permitted on shore-based equipment such as flags.
  - 14.** Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
  - 15.** Compliance with sub-licence conditions and any other statutory requirement that may apply from time to time.

## 6.3. Stand-Up Paddleboard School

This list is to be read in conjunction with the matters set out in this Policy.

### 1 **Introduction:**

A stand-up paddleboard school provides an opportunity for the public to experience the sport of stand-up paddle boarding in enclosed flat waters of the Brunswick River.

### 2 **Qualifications:**

- 2.1 Current Surf Rescue Certificate (SLSA Community Award) OR Current Bronze Medallion (SLSA proficient annually) OR Ocean Rescue Award (RLSS proficient annually), AND
- 2.2 Minimum - Level 1 Stand Up Paddle Instructor (Enclosed Flat Water) Accreditation from an Australian Nationally Recognised Training Institution, AND
- 2.3 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross), AND
- 2.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

### **Risk Management Protocol**

The following equipment is to be provided on the beach with every class:

- 2.5 A mobile telephone,
- 2.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council during each sub-licence term),
- 2.7 A Stand-Up Paddle Board School Instructor must be clearly identifiable by apparel or craft,
- 2.8 All life jacket and other safety regulations must be adhered to, and
- 2.9 All personalised safety apparel, hard hats, safety vests or shirts must clearly distinguish a Stand-Up Paddle Board School from any other Stand-Up Paddle Board School.

### **Insurance Cover**

- 2.10 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), AND
  - 2.11 Minimum \$5 million Professional Personal Indemnity.
- 3. A stand-up paddleboard school sub-licenced instructor must accompany all students at all times while in on the Brunswick River; and
  - 4. A stand-up paddleboard school must operate more than 500m from the Brunswick River mouth.
  - 5. A stand-up paddleboard school must operate at a minimum distance of 100 metres from any other stand-up paddleboard school.
  - 6. No stand-up paddleboard school will have priority over any other stand-up paddleboard school in the licensed area. A stand-up paddleboard school must attempt

to liaise with the other sub-licensed stand-up paddleboard schools to ensure only one class from each school is in the reserve, in the lesson area at one time.

7. A stand-up paddleboard school must not interfere with other reserve users or enjoy exclusive use rights over any licensed area.
8. A stand-up paddleboard school must have distinctive garments for each student and instructor, and
  - 8.1 students from each stand-up paddleboard school must be identifiable and distinguishable from any other stand-up paddleboard school,
  - 8.2 instructors from each stand-up paddleboard school must be easy to identify from a distance and be distinguishable from the other sub-licensed activity,
  - 8.3 each stand-up paddleboard school must have clear and visible colour coding exclusively on all garments, and
  - 8.4 all students must wear a leg-rope that is attached to a stand-up paddleboard.
9. A stand-up paddleboard school must keep and retain records of all students and daily signed logs, such records to be made available for inspection to Council as required.
10. A stand-up paddleboard school class must be cancelled if conditions are unsafe. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
11. No structures, temporary or permanent, are to be erected on any licensed area including the beach or on any land area of the reserve except as permitted in 1.2 in this policy.
12. No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
13. No advertising is permitted on any uniforms or equipment used by a stand-up paddleboard school with exception of the stand-up paddleboard school business logo. Advertising of any kind is not permitted on shore-based equipment.
14. Any class area or parking area must be kept in a clean and tidy condition free from litter and refuse at all times.
15. Compliance with sub-licence conditions and any other statutory requirement that may apply from time to time.

## 6.4. Sea Kayak

This list is to be read in conjunction with the matters set out in this Policy.

### 1 **Introduction:**

Sea Kayak provides adventure tours to individuals and groups in licensed area.

### 2 **Qualifications:**

- 2.1 Current Surf Rescue Certificate (SLSA Community Award) OR Current Bronze Medallion (SLSA proficient annually) OR Ocean Rescue Award (RLSS proficient annually), AND
- 2.2 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross), AND
- 2.3 Certificate of Operation under Part 4, Division 3, or the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth), AND
- 2.4 Current Working with Children Check in accord with relevant Child Protection Legislation.

### **Risk Management Protocol**

The following equipment is to be provided on the beach with every class:

- 2.5 A mobile telephone,
- 2.6 A First Aid Kit (to be audited each quarter to the satisfaction of the Byron Bay Surf Lifesaving Club and reviewed by Council during each sub-licence term if requested),
- 2.7 All sea kayak craft (maximum of 18 single or tandem) must be licensed by the NSW Government with licence numbers clearly displayed on each craft,
- 2.8 For safety purposes the Instructor's or Tour Guide's Sea Kayak craft must be distinctly marked for quick identification as the instructor's kayak craft,
- 2.9 All life jacket and other safety regulations must be adhered to, and
- 2.10 All personalised safety apparel, hard hats, safety vests or shirts that clearly distinguish one Sea Kayak tour from any other sea kayak activity.

### **Insurance Cover**

- 2.11 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), and
  - 2.12 Minimum \$5 million Professional Personal Indemnity.
3. Maximum of 730 sea kayak tours per annum, and
- 3.1. a maximum of 3 sea kayak tours per day per sub-licence, and
  - 3.2. sub-licensees must notify Council and the Cape Byron Marine Park in writing before conducting a 3<sup>rd</sup> tour per day, and
  - 3.3. sub-licensees must report in writing to Council and the Cape Byron Marine Park before the end of December, March, June, and September in each year of the sub-licence the total number of tours conducted during the quarter and total number of tours year to date, and

- 3.4.** one sea kayak tour from each Sea Kayak operator is permitted in the reserve, in the lesson area at the same time.
- 4.** Sub-licensees must comply with Paddle Australia Guidelines for the ratio of participants to instructor and:
- 4.1** The accepted ratio of instructor to participants for conducting group kayaking activities at sea is 1:6 or 1:8 if using tandem kayaks.
- 4.2** Supervision should be increased towards a ratio of 1:2 considering the following conditions or variables:
- participants have special needs, including behavioural, physical, or mental disability,
  - participants are primary children,
  - foreseeable conditions are poor, including swell, breaking waves, spring tides and/or wind (especially if against the tide),
  - the water temperature is cold and may affect participants' capabilities,
  - a trip is being undertaken which:
    - is along a committing shoreline,
    - is remote from observation,
    - involves unavoidable tide races or over falls.
  - Access or egress will involve surf > 1 metre.
- 4.3** supervision may be relaxed towards a ration of 1:10 considering the following conditions or variables:
- all participants are adults,
  - all participants are competent, both individually and as a group, to deal with likely problems, which may be encountered,
  - all participants are reliable rollers,
  - good weather forecast for a stable sea state with no spring tides or tidal stream,
  - water temperatures are warm and present little risk to participants,
  - the location /route is in not remote and assistance from other groups or craft is available,
  - the location/route is always close to an easily accessible shoreline, and
  - the leader holds a higher qualification than required for the activity.
- 5.** No sea kayak sub-licensee will have priority over any other sub-licensed in the reserve. Sea kayak operates are encouraged to liaise with each other to ensure that only one class from each operator is in the reserve, in the lesson area at one time.
- 6.** Sea kayak tour must not interfere with other reserve users or enjoy exclusive use rights over any licensed area.
- 7. Approaching Marine Mammals**
- 7.1** sea kayak sub-licensees must comply with the *National Parks and Wildlife Act 1974* (NSW) as amended and the *National Parks and Wildlife Regulation 2009* (NSW) as amended for the interaction with marine mammal, and

- 7.2** sea kayak sub-licensees must liaise with the National Parks and Wildlife Service ('NPWS') on a regular basis and comply with any requests or directions from the NPWS by necessity, and
  - 7.3** sea kayak sub-licensees must inform all participants of each tour of conditions in 7.1 and 7.2 before departing the beach.
- 8.** Sea kayak sub-licensees must ensure distinctive garments are worn by students and instructors. Students from each sea kayak business should be identifiable and distinguishable from any other sea kayak business, and

  - 8.1** instructors from each sea kayak sub-licensee should be easy to identify from a distance and be distinguishable from the other sea kayak licensee, and
  - 8.2** sea kayak sub-licensee should have clear and visible colour coding exclusively on all garments, beach flags and kayaks, and
  - 8.3** sea kayak sub-licensees should use bright colours on all garments and other apparel when on the beach to assist in easy and quick identification.
- 9.** Sea kayak sub-licensee must keep and retain a record of clients and daily signed logs, such records to be made available for inspection by Council, as required.
- 10.** A sea kayak tour must be cancelled if conditions are unsafe. All reasonable directions from Surf Life Saving Officers, NSW Police Force Officers or Council Officers must be complied with.
- 11.** No advertising is permitted on any uniforms or equipment used by a sea kayak business with exception of the sea kayak business logo. Advertising of any kind is not permitted on shore-based equipment.
- 12.** No structures, temporary or permanent, are to be erected on any licensed area including the beach or on any land area of the reserve except as permitted in 1.2 in this policy.
- 13.** No vehicles are to be driven on any licensed area including the beach or in any grassed reserve under the control of Byron Shire Council.
- 14.** All areas occupied on the Reserve and parking areas must be kept in a clean and tidy condition free from litter and refuse at all times.
- 15.** Compliance with sub-licence conditions and any other statutory requirement that may apply from time to time.



## 6.5. Mobile Kiosk

This list is to be read in conjunction with the matters set out in this Policy.

### 1. **Introduction:**

A mobile kiosk serves food that is not potentially hazardous such as pre-packaged foods like soft drinks, ice creams and packaged confectionery.

### 2. **Insurance:**

2.1 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), and

2.2 Minimum \$5 million Professional Personal Indemnity, and

2.3 Minimum \$20 million Product Liability.

3. A mobile kiosk may operate daily with the hours as specified by the sub-licence.

4. A mobile kiosk is a non-motorised unit that may only operate within licence areas as specified by the sub-licence.

5. A mobile kiosk must not operate from a fixed location but maintain a regular route within the licenced area as specified in the sub-licence.

6. A mobile kiosk sub- licensee must supply a suitable non-motorised unit for use for the carrying, storage and sale of foodstuffs and be approved by Council's Environmental Health Officers before use. Suitability of the unit is at the discretion of Council.

7. A mobile kiosk sub- licensee must comply with the *Food Act 2003* (NSW) and *Regulations* and adopt Council's Food Code.

8. A mobile kiosk sub- licensee must provide for sale only pre-packed foodstuffs for example soft drink cans, ice blocks and packaged confectionery.

9. A mobile kiosk sub- licensee may sell sunscreen products approved by the Cancer Council of NSW. A mobile kiosk sub- licensee is prohibited from selling or providing any structures such as umbrellas, sunshades or similar deemed to restrict the movement by people on the coastal reserve.

10. A mobile kiosk sub- licensee or any of his / her employees must have attained a current 'Bronze Medallion in Surf Life Saving' and a senior level 'First Aid Certificate' which is current before commencing trade on any coastal reserve.

11. A mobile kiosk sub- licensee must provide suitable containers for the collection of garbage and must actively encourage all customers to dispose of litter in a responsible manner.

12. Any other conditions that Council may impose from time to time.

## 6.6. Mobile Beach Locker Hire

This list is to be read in conjunction with the matters set out in this Policy.

### 1. **Introduction:**

Mobile beach locker hire is aimed at providing 7 days public access to safely store their personal chattels while at the beach.

### 2. **Insurance:**

2.1 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), and

2.2 Minimum \$5 million Professional Personal Indemnity, and

2.4 Minimum \$20 million Product Liability.

3. A mobile beach locker hire sub-licence is the right to operate a locker business only no other services or goods are to be offered for sale or hire.
4. A mobile beach locker hire sub- licensee must at their own cost, provide all equipment necessary to officially carry out a mobile beach locker business and must remove all such equipment on the termination of the Licence.
5. The mobile beach locker hire sub- licensee may operate daily with the hours as specified by the sub- licence.
6. The mobile beach locker hire sub- licensee may only operate from fixed location as specified by the sub- licence.
7. A mobile beach locker hire sub- licensee must be legally operated in a businesslike and efficient manner.
8. A mobile beach locker hire sub- licensee must ensure not display advertising matter other than reasonably necessary to identify the business and the service provided.
9. A mobile beach locker hire sub- licensee must ensure that all equipment and structures associated with the locker business is well maintained and all approvals are obtained under relevant laws.
10. While a mobile beach locker hire sub- licensee has discretion to make changes to their business, the sub- licensee must at all times reasonably have regard to the nature of the service being provided.
11. No tickets, pamphlets, or other material with potential to become litter can be used in connection with the operation of the business unless authorised by the sub- licensor.
12. All material used for the operation of the mobile beach locker hire or ancillary to the business must not be stored on the beachfront when not in operation. The lawful parking of associated trailers and vehicles must be the responsibility of the Licensee.

- 13.** A mobile beach locker hire sub-licensee must not use any public address or other sound amplification system in association with the provision of the service.
- 14.** A mobile beach locker hire sub-licensee must not drive a vehicle onto the designated beach area in a way that possess a risk to any person of the public walking on a footpath, the Licensee must take all necessary risk management steps to prevent any injury to persons or property.
- 15.** Any other conditions that Council may impose from time to time.

## 6.7. Access through reserves for equestrian activities

This list is to be read in conjunction with the matters set out in this Policy.

### 1 **Introduction:**

The sub-licence provides access through the coastal reserve to carry out guided horse-riding tours on selected beaches in the coastal reserve.

### 2 **Qualifications:**

- 2.1 Current Horse-Riding Guided Tour accreditation with a recognised Australian based Horse Trail/Riding Education Accreditation Organisation, Association, Council or Academy as recommended by the 'NSW Safe Work Code of Practice Managing Risks' February 2017: and
- 2.2 First Aid Senior Certificate (St Johns, TAFE, NSW Ambulance, Red Cross or other approved by Council); and
- 2.3 Current Working with Children Check in accordance with relevant Child Protection Legislation.

### **Risk Safety and Operational Management Protocol:**

- 2.4 Compliance with Work, Health, and Safety Act 2011 (NSW) and Regulations, and
- 2.5 Obedience to the Road Users' Handbook Transport for NSW.

### **Insurance Cover:**

- 2.6 Minimum \$20 million Public Liability Insurance (such a policy to note the interests of the principal – i.e., Byron Shire Council, and the Minister Administering the Crown Lands Act), and
- 2.7 Minimum \$5 million Professional Personal Indemnity (if applicable).

### **Additional Permit:**

- 2.8 Hold a current NSW Marine Park Permit issued by the Cape Byron Marine Park.
3. The sub- licensee may carryout equestrian activities on designated parts of Lot 407 DP729057 or Lot 428 DP729272 for a maximum period of 250 days in any calendar year.
  4. The sub- licensee, their agents and employees must ensure horses are under control at ALL times with equestrian activities through the reserve.
  5. to coincide within two hours either side of low tide on designated beaches, with horses limited to the intertidal zone (below high water).
  6. A maximum of ten (10) horses with a maximum of four (4) clients per instructor, with groups limited to two groups of five (5) horses separated by at least 100 metres.

- 7.** The sub-licensee **MUST** carry out equestrian activities on the licensed land in designated access paths as determined by Byron Shire Council and detailed in the sub-licence with non-compliance resulting in immediate termination of this sub-licence.
- 8.** The sub-licensee must not interfere with any other reserve users or enjoy exclusive rights over the licensed land.
- 9.** All horse droppings must be collected during and after access through the reserve, a failure to collect horse droppings may result in immediate termination of the sub-licence.
- 10.** No horse or horse float must be washed down in the licensed land.
- 11.** Sub-licensee must provide distinctive garments that clearly identify clients and instructors and must be worn throughout the equestrian activity.
- 12.** Sub-licensee must only advertise on vehicles, trailers, equipment, horses, and distinctive garments.
- 13.** The sub-licensee must comply with all regulatory signs, unless otherwise authorised by Council in writing.
- 14.** Any other conditions that Council may impose from time to time.